IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 01.12.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Appeal No.127 of 2002

& WAMP No.203 of 2002

Messrs Sri Shanmugha Talkies
Veeravanallur
rep., by its Proprietrix Meenammal,
No.69, South Car Street,
Veeravanallur-627 426. ... Appellant

Vs.

1.The Regional Provident Fund Commissioner,
Employees Provident Fund Organisation,
Sub Regional Office,
43-P/1, Trivandrum Road,
Palayamkottai, Tirunelveli-2.

2.The Assistant Provident Fund Commissioner
Employees Provident Fund Organisation,
Sub Regional Office, 43-P/1, Trivandrum Road,
Palayamkottai, Tirunelveli-627 002.

3.The Recovery Officer, Office of the Employees
Provident Fund Organisation,
Sub Regional Office,
43-P/1 Trivandrum Road,
Palayamkottai,
Tirunelveli-627 002. ... Respondents

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Writ appeal filed under Clause 15 of the Letters Patent against the order dated 12.10.1999 made in W.P.No.10776 of 1996, certiorari mandamus calling for the records of the 2nd respondent in TN/T1/29056/Enf/1(2) and quash the order of the 2nd respondent therein dt.18.10.96 confirmed in his order dt.13.5.96 in TN/T1/29056/Enf/1 (2)/96 and consequently to direct the respondents to forbear from proceedings in the matter without giving the petitioner a reasonable opportunity of representing its case.

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For Appellant : Mr.T.M.Hariharan

For respondents : Mr.V.Vibhishanan

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeal is directed against the order dated 12.10.1999 made in W.P.No.10776 of 1996, in and by which, the learned single Judge, after considering the claim of both parties, has granted the relief in part. Not satisfied with the said order, the petitioner viz., M/s Sri Shanmugha Talkies, has filed the above writ appeal.

2. Heard the learned counsel appearing for appellant as well as the respondents.

3. The only contention raised by the learned counsel for the appellant is that at the relevant time, the petitioner was having only four employees, hence according to him, the liability to pay the provident fund does not arise.

4. We are unable to accept the said contention since admittedly though the appellant had received notice for enquiry, they did not appear and put forth their contentions, including the above said contention, by placing acceptable documentary evidence. In such circumstances, It is not possible for the appellant to raise such contention at this stage.

5. Coming to the merits of the case, the learned single Judge, taking note of the fact that the appellant had purchased the said Sri Shanmugha Talkies on 26.03.1990 from one Boomilingam Pillai, has rightly burdened the liability from the said date. It cannot be argued that the said conclusion is bad. In fact, since the learned single Judge directed the petitioner/appellant to pay the demand after the date of their purchase viz., 26.03.1990 and quashed the demand relating to the period prior to the said date, we are in agreement with the said conclusion and we do not find any merit in the writ appeal. Consequently, the same is dismissed. No costs. WAMP No.203

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of 2002 is also dismissed.

raa

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

To

1.The Regional Provident Fund Commissioner,
Employees Provident Fund Organisation,
Sub Regional Office,
43-P/1, Trivandrum Road,
Palayamkottai, Tirunelveli-2.

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Palayamkottai,
Tirunelveli-627 002.

+1 C.C. to Mr.V.Vibhishanan, Advocate SR.No.59201

JSK(CO)
TES (20/12/2006)

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